SIGNIFICANT COURT CASES

City Securities Corp. v. Department of State Revenue
704 N.E.2d 1122 (Ind. Tax 1998)

City Securities questioned whether the Department's failure to issue a letter of findings in a timely manner voided the Department's assessment of gross income tax and whether the Department has the authority to assess gross income tax on the profit made from buying and selling bonds when the bonds are exempt from gross income tax under their enabling statutes. The Tax Court found the legislature had not expressly provided a specific remedy for the Department's failure to issue a letter of findings within 60 days of an administrative hearing. "[T]his Court may not usurp the authority of the legislature by engrafting a remedy onto a statute where none exists." The Court, therefore, refused to void the assessment. However, the Court noted taxpayers may either appeal to the Tax Court if the Department fails to issue a letter of findings within 60 days of the administrative hearing or petition the Tax Court for mandamus to order the Department to act. The Court, citing IC §6-8-5-1, further held the General Exemption Statute specifically states income gained from the sale of so-called tax exempt bonds, to the extent that gain exceeds the amount the taxpayer initially invested in the bond, is taxable. "Merely citing the enabling statutes that create the tax exempt bonds is insufficient to prove that a profit made from the advanced marketing and sale of the bonds is also exempt from taxation."

Farm Credit Services of Mid-America v. Indiana Department of State Revenue
705 N.E.2d 1089 (Ind. Tax 1999)

The Department conceded Farm Credit Services, an Agricultural Credit Association, was a federal instrumentality, but contended the concession was not dispositive of Farm Credit Service's immunity from state taxation. The Department argued that federal instrumentalities are subject to state taxation unless Congress expressly exempts them from state taxation. Petitioner argued its undisputed status as a federal instrumentality meant it was immune from the State's Financial Institutions Tax. The Tax Court held the U.S. Constitution's Article VI Supremacy Clause bars state taxation of federal instrumentalities, absent a congressional waiver. Because Congress has not waived Petitioner's immunity from state taxation, under the Supremacy Clause Indiana is without power to collect the Financial Institutions Tax from Petitioner. The Court explained there was a difference between cases where the issue is whether the federal government conferred immunity from state taxation to entities that are not federal instrumentalities and cases where the issue is whether a state may tax a federal instrumentality. The Court found the issue in the present case to be whether a state may tax a federal instrumentality and held it could not. The Department filed a petition of transfer with the Indiana Supreme Court.

Tri-States Double Cola Bottling Co. v. Department of State Revenue
706 N.E.2d 282 (Ind. Tax 1999)

The Court determined uniforms, glass-front coolers, and computer equipment purchased by Tri-States were subject to Indiana Use Tax. The Court found the uniforms worn by the Tri-States' employees did not meet the requirements of 45 IAC 2.2-5-8(c)(2)(f) because the uniforms reduced the possibility of contamination by an unspecified degree. Additionally, the Court found that, if the uniforms were truly required to prevent contamination, it is highly unlikely Tri-States would have permitted the uniforms to be worn outside of the production facility. The Tax Court found Tri-States provided glass-front coolers free of charge to retailers who sell its products. The Court held the use of the coolers by the retailers is free of charge and this transaction between Tri-States and its retailers is not taxable under IC 6-2.5-4-10(a); therefore, the coolers were not exempt from use tax under section IC 6-2.5-5-8. The computer equipment Tri-States purchased from a retailer in Kentucky was subject to use tax even though Tri-States believed it had paid use tax to the retailer. In its holding, the Court determined Tri-States was liable for the Use Tax unless it could show the seller in this case was either a retail merchant engaged in business in Indiana or that the seller in this case had permission from the Department to collect the tax.

CNB Bancshares, Inc. v. Department of State Revenue
706 N.E.2d 616 (Ind. Tax 1999)

At issue was the Department's final determination denying CNB a tax credit for interest received on qualified loans made to businesses located within a statutorily designated Enterprise Zone. The Department argued that, as a zone business, CNB was required to pay an Annual Registration Fee and to reinvest any credits received in the enterprise zone under IC 4-4-6.1-2(a)(4). CNB argued that, under IC 6-3.1-7-2, any taxpayer receiving interest on a qualified loan is entitled to the credit whether or not that taxpayer is an Enterprise Zone business. The Court's opinion stated that a taxpayer is not required to comply with the requirements of IC 4-4-6.1-2(a)(4) in order to be eligible for the credit. "A taxpayer need only receive interest from a qualified loan. There is no requirement that the entity loaning the money be a zone business or even located in an EZ." The credit CNB accessed is provided by IC 6-3.1-7-2 and not by IC 4-4-6.1. The Court held that CNB is not a zone business based on the definition provided by IC 4-4-6.1-1.1 and is, therefore, not subject to registration and reinvestment requirements.

First Chicago NBD Corp. v. Department of State Revenue
708 N.E.2d 631 (Ind. Tax 1999)

The issue was whether IC 6-5.5-1-12(a)(7), which requires the add-back of taxes "based on or measured by income" to federal taxable income in computing financial income tax liability, requires the add-back of the Michigan Single Business Tax (MSBT); or, stated differently, whether the MSBT is "based on or measured by income." The Tax Court held the MSBT was a type of value-added tax (VAT). The Court found a VAT is different from an income tax in that an income tax is based on a taxpayer's ability to pay and is measured by the price received for the particular product, while a VAT is a tax on the taxpayer's "total business activity" and is measured by the cost of producing its product. The Department claimed the MSBT is "based on or measured by income," because the formula for calculating a taxpayer's tax base begins with federal taxable income. Petitioner argued that regardless of whether income is one component of the tax base, the MSBT is not based on or measured by income. The Tax Court upheld the Petitioner's position, finding that, although taxable income is one portion of the tax base formula, "the MSBT is not measured by or based on income. The fact that the calculation of a taxpayer's tax base begins with taxable income demonstrates nothing." The Court found the MSBT formula is not designed to measure income but rather the value added through the production process. In contrast, a tax based on or measured by income would be calculated by subtracting such outlays in order to arrive at the income or profit made after the product is sold, and a tax measured by gross income or gross receipts would not add such outlays—it would merely look to what the taxpayer received during that tax period. "The MSBT may start out with income," the Tax Court concluded, "but after the extensive adjustments incorporated into the calculation of the MSBT, the MSBT becomes an entirely different tax, one that cannot be fairly read to fit under the 'based on or measured by income' language chosen by the Indiana General Assembly."

The Hunt Corp. v. Department of State Revenue
709 N.E.2d 766 (Ind. Tax 1999)

The Hunt Corp. contended the Department erroneously concluded certain income items constituted adjusted gross income taxable by Indiana, namely income from corporate partnerships in which members of the affiliated group were partners, as well as interest income derived from an installment sale of real property by a member of the affiliated group. The Court dealt at length regarding the differences between apportionment and allocation of income, as well as the means of determining business and non-business income. The Court ruled IC 6-3-2-2 is a "general provision that deals with how all of a corporate taxpayer's adjusted gross income is attributed by way of allocation and apportionment rules. It cannot be seriously disputed that affiliated groups of corporations are corporate taxpayers and consequently are subject to the apportionment and allocation rules contained in Section 6-3-2-2." (Citations omitted.). To determine where the income from the corporate partnerships is to be attributed,

it must first be determined whether that income constitutes business or non-business income for the affiliated group. The Department's finding that the income from the corporate partnerships constituted business income for the affiliated group means it was subject to factor apportionment. "Therefore, the Department properly included all of that income (and losses) in the apportionable base of the affiliated group." Under the three-factor apportionment formula, the Court ruled, "Where a corporation has income from sources within and without Indiana, the portion of that income attributed to Indiana is calculated by taking into consideration the corporation's business income from within and without Indiana. In other words, all of a corporation's business income is included in the calculation. Therefore, the relevant inquiry is not the source of the income from the corporate partnerships, but rather whether that income is part of the apportionment bases. Where income is subject to apportionment, it does not matter that the income sought to be included in the apportionment base is not or cannot be attributed specifically to the taxing State."

California Concepts, Inc. v. Indiana Department of State Revenue
49C01-9708-MI-1813 (Ind. Marion Cir. Ct., 1999)

California Concepts sought judicial review of the Department's denial of its application for a license to use "Bingo Mate" in Indiana. The Court found "Bingo Mate" to be a "hand held electronic bingo marker." The Court agreed with the Department's conclusion that using the "Bingo Mate" was not consistent with the statutory definition of bingo contained in IC §4-32-6-3. "Because it does not mark the physical card, board, pad, or sheet of paper, as required by statute, [the "Bingo Mate"] does not fall within the statute and its exclusion by the Department is proper."